

FILED FEB 20 '03

SENATE FILE

174

BY LUNDBY

Passed Senate, Date _____ Passed House, Date _____

Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____

Approved _____

A BILL FOR

1 An Act relating to health facility staffing, and providing civil
2 penalties.

3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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SF 174

HUMAN RESOURCES

1 Section 1. NEW SECTION. 135M.1 DEFINITIONS.

2 For the purposes of this chapter, unless the context
3 otherwise requires:

4 1. "Emergent circumstances" means any of the following:

5 a. An officially designated state of emergency that has
6 been declared by a federal, state, or local government
7 official having authority to declare that the state, county,
8 municipality, or locality is in a state of emergency.

9 b. Circumstances resulting in activation of a health
10 facility disaster plan.

11 c. Any unforeseen disaster or catastrophic event that
12 substantially affects or increases the need for health care
13 services.

14 "Emergent circumstances" does not include circumstances
15 resulting from a labor dispute in the health care industry.

16 2. "Employee" means an individual employed by a health
17 facility who is involved in providing direct care to patients
18 or clinical services.

19 3. "Employer" means a person acting directly or indirectly
20 on behalf of a health facility. "Employer" includes the state
21 and political subdivisions of the state.

22 4. "Health facility" means a hospital as defined in
23 section 135B.1, a health care facility as defined in section
24 135C.1, a hospice program as defined in section 135J.1, or any
25 other health care institution that operates twenty-four hours
26 per day, seven days per week.

27 5. "On-call time" means time spent by an employee who is
28 not working on the premises of the health facility but who is
29 compensated for availability or who, as a condition of
30 employment, has agreed to be available to return to the
31 premises of the health facility on short notice if the need
32 arises.

33 6. "Overtime" means hours worked in excess of an agreed
34 upon, predetermined, and regularly scheduled work shift, not
35 to exceed twelve hours in a consecutive twenty-four-hour

1 period or eighty hours in a consecutive fourteen-day period.

2 Sec. 2. NEW SECTION. 135M.2 OVERTIME PROHIBITED --
3 EXCEPTIONS.

4 1. Notwithstanding any other provision to law to the
5 contrary and subject only to the exceptions in this section, a
6 health facility shall not directly or indirectly mandate or
7 otherwise require, and any contract or other agreement
8 executed after July 1, 2003, shall not contain a mandate, that
9 a health facility employee work overtime.

10 2. This section does not prohibit a health facility
11 employee from voluntarily working overtime, and refusal to
12 accept overtime work shall not be grounds for discrimination,
13 dismissal, discharge, allegations of patient abandonment by a
14 licensing board, or any other penalty or employment decision
15 adverse to the employee.

16 3. This section shall not apply to overtime that occurs
17 due to any of the following:

18 a. Emergent circumstances.

19 b. Prescheduled on-call time.

20 c. Completion of patient care already in progress when the
21 absence of the employee would have an adverse effect on the
22 patient.

23 Sec. 3. NEW SECTION. 135M.3 PENALTIES.

24 1. An employer who violates chapter 91A is subject to the
25 civil penalties prescribed in section 91A.12, except that the
26 maximum civil penalty is one thousand dollars for each
27 violation. Each violation of this chapter is a separate
28 violation.

29 2. The penalty prescribed in subsection 1 shall be trebled
30 for a third or subsequent violation of this chapter within a
31 calendar year.

32 3. In addition to the civil penalty, an employer found in
33 violation of this chapter shall pay reasonable attorney fees
34 and court costs associated with the action.

35 4. In any action brought under this chapter, the fact that

1 an employee worked in excess of twelve hours in a consecutive
2 twenty-four-hour period or eighty hours in a consecutive
3 fourteen-day period is a prima facie violation of this
4 chapter.

5 5. Notwithstanding section 91A.12, subsection 1, an
6 employee who reports a violation under this chapter which
7 results in assessment of a civil penalty may receive up to
8 twenty percent of the amount assessed.

9 Sec. 4. HEALTH CARE WORKFORCE -- REVIEW. The department
10 of workforce development, in cooperation with the department
11 of inspections and appeals, the Iowa department of public
12 health, and the state health policy commission, shall conduct
13 a review of health care workforce conditions, including
14 overtime and staffing errors. The department of workforce
15 development shall submit a report of findings and
16 recommendations to the general assembly and the governor no
17 later than January 15, 2004.

18 EXPLANATION

19 This bill prohibits a health facility from mandating or
20 otherwise requiring a health facility employee to work
21 overtime. "Overtime" is defined as hours worked in excess of
22 an agreed upon, predetermined, and regularly scheduled work
23 shift, not to exceed 12 hours in a consecutive 24-hour period
24 or 80 hours in a consecutive 14-day period.

25 The bill does not prohibit a health facility employee from
26 voluntarily working overtime, but provides that refusal to
27 accept overtime work is not grounds for discrimination,
28 dismissal, discharge, allegations of patient abandonment by a
29 licensing board, or any other penalty or employment decision
30 adverse to the employee.

31 The prohibition against overtime work does not apply to
32 emergent circumstances, prescheduled on-call time, or
33 completion of patient care already in progress when the
34 absence of the employee would have an adverse effect on the
35 patient.

1 An employer who violates the bill violates Code chapter 91A
2 and is subject to a maximum civil penalty of \$1,000 for each
3 violation, each violation of the bill being a separate
4 violation. The penalty prescribed is to be trebled for a
5 third or subsequent violation within a calendar year. In
6 addition to the civil penalty, an employer found in violation
7 is to pay reasonable attorney fees and court costs associated
8 with the action. In any action brought, the fact that an
9 employee worked in excess of 12 hours in a consecutive 24-hour
10 period or 80 hours in a consecutive 14-day period is a prima
11 facie violation of this chapter. An employee who reports a
12 violation which results in assessment of a civil penalty may
13 receive up to 20 percent of the amount assessed.

14 The bill also directs the department of workforce
15 development, in cooperation with the department of inspections
16 and appeals, the Iowa department of public health, and the
17 state health policy commission, to conduct a review of health
18 care workforce conditions, including overtime and staffing
19 errors. The department of workforce development is to submit
20 a report of findings and recommendations to the general
21 assembly and the governor no later than January 15, 2004.

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